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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

8 LE ANDRE JOHNSON, ) No. C 08-2883 MMC (PR)  
9                                      Petitioner, ) **ORDER OF DISMISSAL**  
10                                      v. )  
11 TOM CAREY, )  
12                                      Respondent. )  
13 \_\_\_\_\_ )

14            On June 9, 2008, petitioner, a California prisoner proceeding pro se, filed the  
15 above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. That  
16 same date, the Court notified petitioner in writing that the action was deficient due to  
17 petitioner's failure to pay the requisite filing fee or, instead, to submit a completed court-  
18 approved in forma pauperis ("IFP") application. In said notice, petitioner was advised  
19 that his failure to pay the filing fee or, alternatively, to file a completed IFP application,  
20 within thirty days, would result in dismissal of the action.

21            Petitioner did not respond to the deficiency notice. Consequently, on August 1,  
22 2008, the Court issued an order finding the action was subject to dismissal. The Court  
23 noted therein, however, that an attachment to the petition indicated petitioner was  
24 seeking to have the filing fee waived on the ground he had paid the fee in an earlier  
25 petition, Johnson v. Sisto, C 07-5187 MJJ (PR), in which pleading petitioner had raised  
26 the same claims as are raised in the instant petition.<sup>1</sup>

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28            <sup>1</sup>The earlier petition was dismissed on November 28, 2007, due to petitioner's failure  
to either pay the filing fee or file a completed IFP application in that matter. Subsequently,  
after the case was closed, petitioner paid the filing fee.


1 In its order of August 1, 2008, the Court denied petitioner's request for waiver of  
2 the filing fee, finding Case No. C 07-5187 was properly dismissed and that petitioner  
3 was obligated to comply with the court's filing fee-requirements in the instant action.  
4 Nevertheless, although the instant petition was subject to dismissal due to petitioner's  
5 failure to comply with the court's filing-fee requirements, the Court's order of August 1,  
6 2008 granted petitioner one further opportunity to comply, either by paying the requisite  
7 filing fee in this matter or submitting a court-approved IFP application showing he is  
8 unable to pay the fee. The Court further informed petitioner that if he failed to comply  
9 with the court's filing-fee requirements within twenty days of the date the Court's order  
10 was filed, the action would be dismissed without prejudice. Together with the order,  
11 petitioner was sent a copy of a court-approved IFP application, instructions for  
12 completing it, and a return envelope.

13 More than twenty days have passed since the Court's order was filed and  
14 petitioner has not filed a completed IFP application, paid the filing fee, or otherwise  
15 responded to the order. Accordingly, the above-titled action is hereby DISMISSED  
16 without prejudice.

17 The Clerk shall close the file.

18 IT IS SO ORDERED.

19 DATED: September 9, 2008

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21 MAXINE M. CHESNEY  
22 United States District Judge  
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